

REMARKS

This response accompanies Applicant's request for continued examination and is a full and timely response to the final Office Action of February 11, 2008. By the present Amendment, claims 1-6, 8, 10-12, 14-19, 21, 23, 25, and 27-31 have been amended. Claims 7 and 20 have been cancelled. Therefore, claims 1-6, 8-19 and 21-31 remain in this application. No new matter has been added. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

As disclosed in the specification of the presently pending application (see U.S. Publication No. 2004/0242309), the present invention provides, among other things, an advanced, robust lottery transaction system that gives retailers (e.g., lottery agents), lottery distributors and lottery service providers more control, greater selection and greater interactivity with the system. For example, a lottery distributor can not only offer a range of games that changes over time, but can choose which games to offer from an ever-changing menu of game options over a variety of device types. See Abstract and paragraph 0007. Further, third party application developers can provide new applications and updates for their current applications. See, for example, paragraphs 0025 and 0031-0034 of the present application and related drawings. Third party application providers can integrate their applications using the top application layer of the lottery management and transaction processing system, thereby providing users such as the lottery agent with the ability to better manage game selection and transaction processing via the POS terminal, for example. See Fig. 4 and related discussion.

Independent claims 1, 14 and 27-31 have been amended to enhance the readability of the claim limitations and to allow the components of the claimed invention to be more readily identified. Applicant submits that the insertion of the terms “lottery management and transaction processing system”, “gaming platform services layer” and “application layer” is consistent with the specification at paragraphs 0029-0034 and Figures 1, 2, 4 and 5.

Claim 1 has further been amended to incorporate limitations of claim 7, namely, that the gaming platform services layer of the lottery management and transaction processing system hosts a plurality of lottery games and the second interface allows selection of a game offering hosted by the gaming platform services layer and selected by a user of the POS terminal.

Claim 5 has been amended to recite the limitation whereby the gaming platform services layer hosts a plurality of available lottery games that are *playable* by a user of the POS terminal, and wherein the second interface allows for *game play*, by a user interacting with the POS terminal, of a game offering hosted by the gaming platform services layer. Claim 6 has been amended similarly to claim 5, but wherein the POS terminal used by the player is a second POS terminal. Support for these amendments can be found, for example, in paragraphs 0021, 0045 and 0046, for example.

Claims 14, 18 and 19 have been amended similarly to claims 1, 5 and 6, respectively, and other dependent claims of claims 1 and 14 have been amended for purposes of comporting with the corresponding antecedent basis amendments made in independent claims 1 and 14. Claims 27-31 have been amended to incorporate the lottery management and transaction processing system,

gaming platform services layer and application layer as in claims 1 and 14, as well as similar limitations taken from the now cancelled claims 7 and 20.

Response to 35 USC 112 rejections

In the Office Action, the Examiner required correction of certain language in claims 1 and 27. The language cited as objectionable by the Examiner has been removed from claims 1 and 27; thus, the rejections under 35 USC 112 are now moot.

Response to 35 USC 102 and 103 rejections

Claims 1-13 stand rejected under 35 USC 102(b) based on U.S. Patent No. 6,267,670 to Walker et al. (hereafter, "Walker"). Claims 14-26, 28-29 and 31 stand rejected under 35 USC 103(a) based on Walker in view of U.S. Patent Application Publication No. 2001/0001268 to Menon et al. (hereafter, "Menon"). Claims 27 and 30 stand rejected under 35 USC 103(a) based on Walker in view of Menon and further in view of U.S. Patent Application Publication No. 2002/0062253 to Dosh, Jr. (hereafter, "Dosh").

As previously noted in past responses, Walker is directed to providing fractional lottery tickets as a benefit to consumers who do not wish to carry loose change. While Walker avoids the past issues of having a retail checkout POS device and a separate lottery ticket machine, Walker is purely consumer transaction-oriented, and is not directed to managing the entirety of lottery system processes, such as adding new games, for example. Further, Walker teaches a closed system with the lottery data processing system 60 connecting to just the POS controller 20 by the network interface 71 and data network 50 (see Figs. 1, 2 and 6 and related discussion).

Such an arrangement suits Walker's limited purposes of providing fractional lottery tickets and issuing combined sales receipts.

In the Office Action rejection of claim 1, the Examiner referenced claim language regarding "displaying a third interface associated with an application provided by one or more third party application providers via the network" and applied Walker on the basis that Walker teaches "that existing cash registers and in-store servers may be reprogrammed to accommodate the lottery system" (see pages 4-5 of Office Action). The Examiner has argued that because Walker involves modification of existing equipment (cash registers and in-store servers), Walker's software may therefore be considered a third party application. However, as claimed in claim 1 as amended, it is the lottery management and transaction processing system that is provided with a gaming platform services layer which, in turn, is in communication with an application layer that can receive at least one third party game application which can be selected by a user of the POS terminal. The present invention is not concerned with manipulating POS software and in-store servers as is Walker. In fact, POS device providers are very hesitant to allow their software to be modified. Thus, the present invention provides the gaming platform services layer and application layer as claimed to facilitate game selection, game management and game play as claimed.

Given the teachings of Walker as cited by the Examiner, it is apparent that Walker teaches away from the invention as claimed in amended claim 1. Further, with respect to amended claim 5, Walker neither discloses nor suggests a system that allows a user to *play* a game from among several hosted games using a POS interface. Because Walker does not teach

each and every element of the invention as claimed in claims 1-13, there can be no rejection based on 35 U.S.C. § 102.

Applicant further submits that Walker cannot be combined with Menon, Dosh or any other reference of record to obviate claims 14-31.

Menon has been cited generally for the concept of providing an application programming interface, or API, that allows attachment of third party applications to the system for the purpose of trouble shooting, error management, asset management and service and functionality analysis (see page 8 of Office Action). As discussed above, the Examiner has cited Walker in connection with third party applications in the context of modification of existing retailer POS devices. Thus, combining Menon with Walker would yield an API that allows third party applications to communicate with system software residing on the POS device. Such a combination would not encompass or even suggest the present invention as presently claimed. Applicant submits that Dosh is similarly inapplicable given the above discussion of Walker.

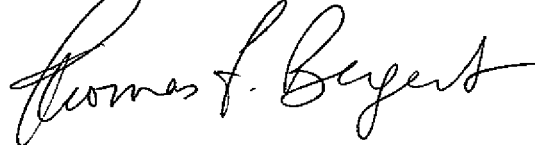
As independent claims 14 and 27-31 incorporate recitations similar to amended claim 1, Applicant submits that these claims are similarly allowable over Walker, considered individually or in combination with any other reference of record. Specifically with regard to claim 29, the recitations also include providing means for selecting at least one lottery game application *for play on behalf of a player* as well as providing means *for a player to play* at least one lottery game application. Thus, as claimed, the invention allows for both retail clerks and game players to use a POS device to interact with the present invention. Walker, as stated above, is concerned

with adapting traditional consumer transaction-oriented POS devices to handle lottery tickets, and does not disclose or suggest the flexibility of a system that can host a variety of games selectable by users (such as retail clerks) and playable by users (such as game players) through different POS devices. Thus, in addition to the distinctions set forth above in connection with claim 1, Applicant submits that Walker, either alone or combined with any other reference of record, would not obviate this claim.

The prior art must teach or suggest *all* claim elements in order to find anticipation or obviousness, and *all* words in a claim must be considered in judging the patentability of that claim against the prior art (see MPEP §§ 706.02(j) and 2143.03). Applicant therefore respectfully submits that the invention as presently claimed is not disclosed or suggested by the prior art of record. Applicant further submits that each of the dependent claims is similarly allowable as being dependent from an allowable independent claim.

Based on the above amendments and remarks, Applicant submits that the present application is now in condition for allowance, and a prompt notice to that effect is appreciated. Should there be any outstanding issues requiring discussion in connection with this response specifically or the present application in general, the Examiner is invited to contact Applicant's undersigned representative at the address and phone number provided below. A petition for three-month extension of time is being submitted along with a request for continued examination and the required fees. To the extent additional fees are due, the Commissioner is hereby authorized to charge Deposit Account No. 50-0766 in the amount of the required fees, but not to include the issue fee.

Respectfully submitted,
WILLIAMS MULLEN, PC

A handwritten signature in black ink, reading "Thomas F. Bergert". The signature is fluid and cursive, with the first name "Thomas" and last name "Bergert" clearly legible.

Thomas F. Bergert
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Reg. No. 38,076

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Attached: Request for Continued Examination
Petition for 3-month extension of time

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